I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: _____ Signature: _____
( )

Docket No.: HSDO-P01-003
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:
Helitzer et al.

Application No.: 10/656,479

Confirmation No.: 8693

Filed: September 4, 2003

Art Unit: 3626

For: SYSTEM FOR REDUCING THE RISK ASSOCIATED WITH AN INSURED BUILDING STRUCTURE THROUGH THE INCORPORATION OF SELECTED TECHNOLOGIES

Examiner: N. Pass

## AFFIDAVIT OF JOHN J. ANTHONY UNDER 37 C.F.R. § 1.132

1. I, John J. Anthony, currently reside at 38 Ox Hill Road, Norwich, Connecticut, and have worked in the field of insurance systems and insurance technology for eight years. I am currently the Director of Technology Innovation at The Hartford, responsible for identifying, evaluating, and applying new and emerging technologies to support new product and service innovations related to a variety of insurance offerings. At time the application was filed, I was an IT Enterprise Architect for The Hartford responsible for the assessment, design, and implementation of technology solutions to support insurance business processes automation. I have a Masters of Science in Computer Science from Rensselaer Polytechnic Institute. Due to my experience in this field, I believe I am qualified to attest to the level of ordinary skill in the art and to the meaning of any terms-of-art in the field.

2. I have reviewed in detail the following documents:

   U.S. Patent Application Publication No. 20040139034 ("Farmer")

   German, John "Portable structure tester may bring better-built homes, shopping malls, skyscrapers," Sandia LabNews Vol. 51, No. 2, 1999 ("German")

3. Vehicle insurance is underwritten based on different types of data than are used for building insurance. In general, underwriting takes into account two components, an estimated likelihood of a claim occurring, and the likely loss associated with a claim. For vehicle insurance, occurrence likelihood estimates are based primarily on variables believed to be predictive of driver behavior, such as age, gender, driving record, etc. Potential losses are derived from extensive historical loss exposure data associated with specific makes and models of vehicles. In contrast, claim likelihood estimations for buildings are for the most part independent of behavioral data. That is, they focus on the construction of the building, its installed safety equipment, its location, etc. Loss estimates are based more on the value of the building itself and its contents, which may vary dramatically from building to building. Due to these distinctions in the underwriting processes, translating vehicle underwriting technology for use with underwriting buildings would take one of ordinary skill in the art an undue amount of experimentation.

4. Farmer fails to provide sufficient information to inform one of ordinary skill in the art of insurance systems and technology how the underwriting process disclosed therein for altering vehicle insurance premiums could be applied to altering insurance premiums for buildings.

   In relation to vehicles, farmer discloses a several technologies via which operation of a vehicle and vehicle operator status may be monitored (e.g., paragraph [0026] and paragraph [0028]). Farmer discloses a number of parameters, which may be collected from such technologies, which have clear implications for the risk profile of an insured vehicle/driver (paragraph [0026]) as they relate to driver behavior and driver safety.

In contrast, in relation to home or building systems, the only parameters Farmer specifically suggests collecting include energy usage, and data related to heating-A/C systems, and security systems. It would not be obvious to one of ordinary skill of the art at the time of filing the application how such data would be useful for affecting building insurance premiums. Beyond that, Farmer merely suggests that "any other application where information is captured" may be monitored to collect data."

If one of ordinary skill in the art were to attempt to use the limited teachings of Farmer for developing a system for altering an insurance premium for a building, they would have to identify which parameters or combination of parameters actually affect the likelihood of a claim and/or the severity of a claim and also determine a function to characterize that effect. With the vast array of candidate data sources and data parameters available, and the lack of guidance provided by Farmer, the identification of the proper data sources, data parameters, and functions for processing such data parameters would take extensive and undue levels experimentation.

5. One of ordinary skill in the art would not understand German to suggest that one should, or how one could, obtain data from monitoring technology incorporated into buildings for the purposes of adjusting an insurance premium for that building. German describes a research project in which portable instrument packages are installed in a number of buildings to measure various building parameters, such as air pressure, building movement, and vibration during storms.

The stated goals of German are as followings:

> provid[ing] the insurance and construction industries with a new tool that can help them gather data about the performance of the *generic* home, office building, shopping center, or skyscraper and lead to prioritized improvements to building design, construction standards, and retrofits.
>
> "We can't subject every house in Florida to a hurricane, but we could model the *generic* house and come to conclusions about what designs

> withstand storms and which don't, then develop some solutions," he says.
>
> That could help home and business owners make informed decisions about which construction features are worth investing in, and help regulators know which building code changes make sense. It might also allow insurance companies to develop incentive programs that encourage building owners to adopt the approaches that are proven to work.

(emphasis added). That is, German suggests that monitoring data collected from buildings could be useful for the insurance industry to learn what building designs and features are useful to protect a "generic" building. The insurance industry could then use this information, based on knowledge of the design of particular buildings being insured, to more accurately assess the risk profiles of the respective specific buildings. German does not suggest that such a risk assessment would be based, however, on data collected from sensors incorporated into the respective buildings.

German does not describe that collected sensor data should or could be used to evaluate the premium for a specific building, much less how such an evaluation could be carried out. To the extent that German suggests the results of the monitoring research project might enable insurers to create incentives, one of ordinary skill in the art would understand these incentives to be for building owners to retrofit or alter the design their buildings. One would not understand the incentives to be tied to data collected from sensors monitoring the particular insured building.

---Remainder of Page Intentionally Left Blank---

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true: and further that these statements are made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title XVIII of the United States Code and that willful false statements may jeopardize the validity of this Application for Patent or any patent issuing thereon.

Name: John J. Anthony

Dated:
1-23-2009

Signature: